

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

RP.No. 930 of 2007(J)

AGAINST THE JUDGEMENT IN WPC.20677/2006

REVIEW PETITIONER/PETITIONER

MATHIRE KALLIANI,
D/O.CHITTAI, CHERATHAZHAM AMSOM DESOM,
CANNANORE TALUK, CANNANORE DISTRICT.

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
SRI.MAHESH V.RAMAKRISHNAN

RESPONDENTS: RESPONDENTS

1. MATHIRE NARAYANAI,
D/O.CHITTAI, CHERATHAZHAM AMSOM DESOM,
CANNANORE TALUK, CANNANORE DISTRICT.
2. SMT.MATHIRE KALLIANI,
D/O.CHITTAI,
DO. DO.
3. SMT.MATHIRE PARVATHI,
D/O.CHITTAI, DO. DO.
4. SMT.MATHIRE KUNHATHAI,(DIED),
D/O.CHITTAI, DO. DO.
5. SMT.ALIKKEEL CHEEYAYI,
DO. DO.
6. SRI.KOOTACHITTA RAGHAVAN,
S/O.MALIYOTTAN KANNAN,
DO. DO.
7. SRI.MULLANTAKATH MULLAVI,
S/O.ABDULKHADER, DO. DO.
8. SRI.THAYAMBATH KUNHAMBU,
S/O.KUNNARUKKARAN KANNAN,
DO. DO.

9. SRI.PAYYAPUNNAN ABDULRAHIMAN,
TALIPARAMBA AMSOM DESOM,
CANNANORE TALUK, CANNANORE DISTRICT.
10. SRI.KALASAKARAN CHEMMARAN,
S/O.LATE KUNHATHAI, S/O.CHEMMARAN,
CHERUTHAZHAM AMSOM DESOM,
P.O.PILATHARA, CANNANORE TALUK.
11. SRI.ALINKEEL MATHIRE GOVINDAN,
S/O.LATE KUNHATHAI, DO. DO.
12. SMT.ALINKEEL MATHIRE GOVINDAN,
S/O.LATE KUNHATHAI,
DO. DO.
13. SRI.ALINKEEL MATHIRE BHASKARAN,
S/O.LATE KUNHATHAI,DO. DO.
14. SRI.ALINKEEL MATHIRE GOPALAN,
S/O.LATE KUNHATHAI,DO. DO
15. SRI.ALINKEEL MATHIRE KRISHNAN,
S/O.LATE KUNHATHAI,
DO. DO.
16. SRI.ALINKEEL MATHIRE RAMANI,
D/O. LATE KUNHATHAI,DO. DO.
17. SMT.PALAKEEL NARAYANI,
W/O.LATE DAMODARAN,
PAREEKKAM THADAM, PILLATHARA.P.O,
PIN-670 501,
(CHERUTHAZHAM AMSOM, CANNANORE DISTRICT).
18. SMT.PALAKEEL BINDU,
D/O.LATE DAMODARAN, DO. DO.
19. SMT.PALAKEEL BEENA,
D/O.LATE DAMODARAN, PAREEKKAM THADAM,
PILLATHARA P.O. CHERUTHAZHAM AMSOM, DESOM,
PIN- 670 501.
20. SRI.PALAKEEL BIJU,
S/O.LATE DAMODARAN,
REP. BY HIS MOTHER SMT.PALAKEEL NARAYANI,
DO. DO.

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**21. SMT.MATHIRE KARTHIYANI,
D/O.LATE MATHIRE NARAYANI,
PAREKKAM THADAM, PILATHARA.P.O.**

**ADV. SRI. REYNOLD FERNADEZ FOR R10
ADV. SRI. NINU M DAS – R12, R13, R14 AND R15
ADV. SRI M.SASIDHARAN FOR R6 AND R8**

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION
ON 15/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

M.N.KRISHNAN, J

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RP No.930/2007 in W.P.(C) No.20677 OF 2006

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Dated this the 15th day of October 2007

ORDER

This review petition is filed seeking to review the order passed by me on 20.7.2007 in W.P.(C)No.20677/2006. Learned counsel for the review petitioner brought to my notice the decision of the Apex Court reported in 2007(AIAR(Civil) 37 SC) wherein it is held that when an amendment application is filed in a suit in the year 1988, the proviso to Order VI Rule 17 C.P.C. shall not apply. A reading of the judgment written by me would show that I have taken into consideration the proviso as well. Learned counsel is right in pointing out that it is a mistake in the light of the Apex Court's decision. I agree with him. But, I think it will not change the result of the judgment which I have already passed because I have considered the matter on merits as well. It is found that the proposed amendment is attempted to be projected by giving a total go-bye to the original pleading after litigating for 17 long years. There is a fundamental principle in all amendment applications that they must be made with bona fides. Trying to change the entire case by incorporating a new case by way of an amendment

is not expected to be permitted by the court after a period of two decades.

2. Therefore, though there is a mistake committed by me by extending the proviso of Order VI Rule 17, but on merits, this is a case where there is absolutely no bona fides and amendment petition cannot be allowed so as to change the entire complexion of the case which will certainly prejudice the right of the other side, who has got an approved right in the light of the pleadings already taken by the plaintiff in the suit.

Therefore the review petition is disposed of by confirming my previous order and for the reasons stated in this order.

M.N.KRISHNAN, JUDGE

Cdp/-